

No. 19-15566

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

SHAWNE ALSTON; et al.,
Plaintiffs-Appellees,

v.

**NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, THE
NCAA; et al.,**
Defendants-Appellants.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA
CLAUDIA WILKEN, DISTRICT JUDGE • CASE No. 4:14-MD-02541-CW

**MOTION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF OF NATIONAL FEDERATION OF STATE
HIGH SCHOOL ASSOCIATIONS IN SUPPORT OF
NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION**

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MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

The National Federation of State High School Associations (“NFHS”) respectfully moves for leave to file the accompanying amicus curiae brief. In this appeal, the NFHS supports the position of Appellants the National Collegiate Athletic Association (“NCAA”) and its constituent colleges and athletic conferences.

This motion and the accompanying amicus brief have been timely filed within one week of the filing of the NCAA's principal brief. The Plaintiffs-Appellees have not consented to the filing of the NFHS's amicus brief, necessitating the filing of this motion. *See* Fed. R. App. P. 29(a)(2); 9th Cir. R. 29-3.¹

The NCAA and its member schools and conferences have long played a central role in the advancement of intercollegiate athletics, overseeing the nation's leading college sports league. A primary feature of that league is that players are unpaid amateur athletes, not paid professionals. In this class action, college football and basketball players have challenged the NCAA rules mandating that student athletes be amateurs as violative of federal antitrust laws. Earlier this year, the district court ruled that the NCAA must allow student athletes to be paid for participating in college athletics.

The NFHS is the national service and administrative organization of high school athletics. The NFHS is composed of one high school athletic

¹ No party's counsel authored any part of this brief, and no person—other than the NFHS and its counsel—contributed money that was intended to fund the preparation or submission of NFHS's amicus brief. *See* Fed. R. App. P. 29(a)(4)(E).

or activities association in each of the fifty states and the District of Columbia. Approximately ninety percent of the high schools in the United States are members of state high school athletic or activities associations that are, in turn, members of the NFHS.

The NFHS agrees with the NCAA's position. The NFHS has filed this amicus brief to explain the many benefits of amateurism in education-based sports. The NFHS, along with its state association members, believes that amateurism in athletics is valuable both for its own sake and also as a key aspect of a well-rounded education. The organization is concerned that if amateurism were to give way to professionalism at the collegiate level, negative consequences would ensue. Of particular concern to the NFHS, the proliferation of professional sports at the college level could adversely impact amateurism in high school athletics and imperil its future.

In this sense, an amicus brief from the NFHS "is desirable" and will be "relevant to the disposition." Fed. R. App. P. 29(a)(3)(B). The NFHS aims to "fulfill[] the classic role of amicus curiae by assisting in a case of general public interest, supplementing the efforts of counsel," *Miller-Wohl Co. v. Comm'r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982),

and drawing the Court's attention to relevant matters that might otherwise escape consideration.

CONCLUSION

This Court should grant the NFHS leave to file an amicus curiae brief and accept the accompanying brief for filing.

August 23, 2019

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